

## Office of the Secretary, Interior

## § 4.820

### PROCEDURES

#### **§ 4.815 How proceedings are commenced.**

Proceedings are commenced by the Director by mailing to an applicant or recipient a notice of alleged non-compliance with the Act and the regulations thereunder. The notice shall include either a notice of hearing fixing a date therefor or a notice of an opportunity for a hearing as provided in § 17.8 of this title. The notice shall advise the applicant or recipient of the action proposed to be taken, the specific provisions of part 17 of this title under which the proposed action is to be taken, and the matters of fact or law asserted as the basis of the action.

#### **§ 4.816 Notice of hearing and response thereto.**

A notice of hearing shall fix a date not less than 30 days from the date of service of the notice of a hearing on matters alleged in the notice. If the applicant recipient does not desire a hearing, he should so state in writing, in which case the applicant or recipient shall have the right to further participate in the proceeding. Failure to appear at the time set for a hearing, without good cause, shall be deemed a waiver of the right to a hearing under section 602 of the Act and the regulations thereunder and consent to the making of a decision on such information as is available which may be presented for the record.

#### **§ 4.817 Notice of opportunity to request a hearing and response thereto.**

A notice of opportunity to request a hearing shall set a date not less than 20 days from service of said notice within which the applicant or recipient may file a request for a hearing, or may waive a hearing and submit written information and argument for the record, in which case, the applicant or recipient shall have the right to further participate in the proceeding. When the applicant or recipient elects to file a request for a hearing, a time shall be set for the hearing at a date not less than 20 days from the date applicant or recipient is notified of the date set for the hearing. Failure of the applicant or

recipient to request a hearing or to appear at the date set shall be deemed a waiver of the right to a hearing, under section 602 of the Act and the regulations thereunder and consent to the making of a decision on such information as is available which may be presented for the record.

#### **§ 4.818 Answer.**

In any case covered by § 4.816 or § 4.817, the applicant or recipient shall file an answer. Said answer shall admit or deny each allegation of the notice, unless the applicant or recipient is without knowledge, in which case the answer shall so state, and the statement will be considered a denial. Failure to file an answer shall be deemed an admission of all allegations of fact in the notice. Allegations of fact in the notice not denied or controverted by answer shall be deemed admitted. Matters alleged in the answer as affirmative defenses shall be separately stated and numbered. The answer under § 4.816 shall be filed within 20 days from the date of service of the notice of hearing. The answer under § 4.817 shall be filed within 20 days of service of the notice of opportunity to request a hearing.

#### **§ 4.819 Amendment of notice or answer.**

The Director may amend the notice of hearing or opportunity for hearing once as a matter of course before an answer is filed, and each respondent may amend his answer once as a matter of course not later than 10 days before the date fixed for hearing but in no event later than 20 days from the date of service of his original answer. Other amendments of the notice or of the answer to the notice shall be made only by leave of the administrative law judge. An amended notice shall be answered within 10 days of its service, or within the time for filing an answer to the original notice, whichever period is longer.

#### **§ 4.820 Consolidated or joint hearings.**

As provided in § 17.8(e) of this title, the Secretary may provide for proceedings in the Department to be joined or consolidated for hearing with proceedings in other Federal departments or agencies, by agreement with